

**TENNESSEE MOTOR VEHICLE COMMISSION  
BOARD MEETING  
October 12, 2009 10:30 A.M.  
CONFERENCE ROOM 160  
DAVY CROCKETT TOWER, 500 JAMES ROBERTSON PKWY.  
NASHVILLE, TENNESSEE 37243**

**ROLL CALL:**

	<u><b>PRESENT</b></u>	<u><b>ABSENT</b></u>
<b>BRENT SMITH</b>		<b>X</b>
<b>EDDIE ROBERTS</b>	<b>X</b>	
<b>JOHN BARKER</b>	<b>X</b>	
<b>GEORGE BASS</b>	<b>X</b>	
<b>KENT BEWLEY</b>		<b>X</b>
<b>MELISSA BLANKENSHIP</b>		<b>X</b>
<b>KEVIN CULLUM</b>	<b>X</b>	
<b>DONNIE HATCHER</b>		<b>X</b>
<b>NATE JACKSON</b>	<b>X</b>	
<b>CHAD JONES</b>	<b>X</b>	
<b>ALLEN LEWIS</b>	<b>X</b>	
<b>TRAVIS MCDONOUGH</b>		<b>X</b>
<b>STAN MCNABB</b>	<b>X</b>	
<b>FARRAR SCHAEFFER</b>	<b>X</b>	
<b>BRENDA SPEER</b>		<b>X</b>
<b>RONNIE FOX</b>	<b>X</b>	

The Tennessee Motor Vehicle Commission Meeting was called to order by Vice-Chairman Eddie Roberts on October 12, 2009. Roll Call was taken with a total of (10) member's present.

**A Motion was made by Commissioner Allen Lewis, and seconded by Commissioner Nate Jackson, to approve the minutes from the July meeting.**

**MOTION PASSED UNANIMOUSLY**

**Executive Director Leon Stribling announced the resignation of Commissioner Kent Bewley.**

**REVIEW COMMITTEE**

The Review Committee advised the Commission that the Committee had discussed the attached legal report with counsel and moved that the Commission adopt the attorney's recommendations.

**4. Case No.: 2009013821**

Complainant/consumer living in Massachusetts alleges that he was sold a 1999 Cherokee on eBay by a person in Connecticut claiming to be a dealer/representative of Respondent and was issued temporary Tennessee tags for the vehicle purchased. An investigation found that Respondent lives in New York, has a TN dealer's license and dealership in Tennessee managed by a different person, could not produce temporary logs or deal file for any vehicle and does not maintain minimum hours. Respondent states that he does live in New York, buys cars in other states and sells them in other states under his TN dealership license. Further he stated he did not know of the sell of the 1999 Cherokee, knew the person in Connecticut who sold the car; that he helped Respondent post sales on the internet. He further stated that he gave this person TN temp. tags for vehicles that were sold. The person selling the car in Connecticut stated that the sale of the 1999 Cherokee was not under Respondent's name, however the title indicates this. Further, he admits the TN temp. tags issued were given by Respondent.

The above violations noted include TCA 55-11-114(b)(1)(H) for failing to supervise his agents and employees; TCA 55-11-114(b)(1)(I) for permitting the use of special license plates assigned for a purpose other than that permitted by law; TCA 55-11-114(b)(1)(K) for acts and/or practices fraudulent and deceptive; Rule 0960-1-.10 for failing to maintain reasonable business hours; 09060-1-.11 for failing to make available for inspection business records of all transactions; TCA 55-17-114(b)(1)(G) for employing a person who has not been licensed as a salesperson; TCA 55-17-114(b)(1)(O) for failing to maintain a record of plate issuance.

**Recommendation: Formal Hearing with authority to settle by a Consent Order for revocation of license.**

**Board Action: Formal Hearing with authority to settle by a Consent Order for revocation of license and civil penalty of \$1,000.00**

**13. Case No.: 2009012761**

Complainant/consumer alleges that Respondent/dealer sold him a vehicle without disclosing the vehicle had frame damage as found on an AutoCheck report six months after purchase. Respondent states that he purchased the vehicle at an auction where it was reported to have "possible unibody damage" and that the Complainant was present at the auction where the car was purchased and should also be aware of this. Complainant replied stating he never saw the car at the auction and did not have knowledge that the car had "unibody damage." Respondent also disputes that the car's frame is damaged. Respondent states that a car with described as having "unibody damage" at an auction is not frame damage.

Respondent's failure to disclose to Complainant that the vehicle had "unibody damage" is in the opinion of the commission a false or deceptive act under TCA § 55-17-114(b)(1)(K).

**Recommendation:** Issue a Consent Order with a civil penalty of five hundred dollars (\$500.00) and authorization for a formal hearing.

**Board Action:** Defer this complaint until an investigation has been conducted in order to ascertain whether Respondent or another dealer or the auction allowed the Complainant, a non-dealer to attend the auction.

**23. Case No.: 2009000811**

This complaint was generated from the Dept. of Revenue alleging that Respondent was an individual selling one vehicle per month from an apartment building complex. The Dept. of Revenue did not have an active file on this individual, only information from an informant. An investigation was conducted finding that Complainant had previously owned a dealership. The investigation found the Respondent owned five vehicles but could not provide sufficient evidence of selling more than five vehicles within a year.

**Recommendation:** Close - Insufficient Evidence of a Violation.

**Board Action:** Defer this complaint until a further investigation is done to identify the evidence needed in order to determine if a violation exists.

**APPEALS**

The following appeals were heard by Commission.

Toshion Gilbert, Alexander Toyota- Murfreesboro, TN  
Staff denied application

**Motion made by Commissioner Allen Lewis, and seconded by Commissioner Nate Jackson to grant the license.**

**Motion was made by Commissioner Nate Jackson and seconded by John Barker to amend the first motion. Mr. Gilbert's attorney is to send more information to our Chief Council Wayne Pugh on the correct time and dates for the felony offence. Once the paperwork is sent to Mr. Pugh, he will make the decision on granting the license or not.**

**Vote was unanimous on letting our Chief Counsel gather more information and making the decision on granting or denying the license after all information was turned over to him.**

**Mr. Pugh spoke with the Attorney for Mr. Gilbert and made the decision that the license could not be granted.**

James Eldridge, Victory Nissan of Knoxville, - Knoxville, TN  
Staff denied application

**Motion was made by Commissioner Chad Jones, and seconded by Farrar Schaeffer to uphold the denial of the license.**

**VOICE VOTE**

John Barker	Yes
George Bass	Yes
Kevin Cullum	Abstain
Ronnie Fox	Yes
Nate Jackson	Yes
Chad Jones	Yes
Allen Lewis	Abstain
Stan McNabb	Yes
Farrar Schaeffer	Yes
Eddie Roberts	Yes

Eight (8) yes's, and two (2) abstaining. Vote passes to deny the license.

Michael Coulman, Jim Reed Chevrolet Co. Inc, - Nashville, TN  
Staff denied application

**Motion was made by Commissioner Stan McNabb, and seconded by Commissioner Farrar Schaeffer to grant the license.**

**VOICE VOTE**

John Barker	Yes
George Bass	Abstain
Kevin Cullum	Yes
Ronnie Fox	Yes
Nate Jackson	Yes
Chad Jones	No
Allen Lewis	Yes
Stan McNabb	Yes
Farrar Schaeffer	Yes
Eddie Roberts	Yes

Eight (8) yes's, One (1) abstain, and One (1) no. Vote passes to grant the license.

**DIRECTORS REPORT**

Since the last Commission meeting in April 2009 the following actions have been taken:

Dealers Opened, or Relocated .....118

Active Licensees as of July 1, 2009

Dealers.....4298  
Applications in Process.....50  
Distributions/Manufacturers .....187  
Auctions.....34  
Representatives.....480  
Salespeople.....12810  
Dismantlers.....354  
RV Dealers.....21  
RV Manufacturers.....53

Motor Vehicle Show Permits Issued Since July, 2009.....6

Revenue Received \$ 600.00

Presented dates for Commission meetings for the up coming year. Vice-Chairman Eddie Roberts approved the January 11, 2010 meeting. Chairman Brent Smith will bring up the pending Commission dates to be approved.

**Motion made by Commissioner Nate Jackson, and seconded by Commissioner George Bass to approve the Directors report, and the date for the Commission meeting on January 11, 2010.**

**Motion passed unanimous.**

#### **Old Business**

None

#### **New Business**

Chairman Stan McNabb spoke of the Rules Committee that was held on September 8, 2009. Commissioner McNabb asked Attorney Wayne Pugh to go over some of the increase in fees and rules that was brought up at that meeting. Mr. Pugh explained that the Rules Committee may need to get together again to look at the proposed new rules and if fees need to be raised or how or if it is going to affect some businesses. Right now we are looking at possibly holding a Rule Making Hearing in January. We need a motion for approval of a Notice of a Hearing.

**Motion was made by Commissioner Stan McNabb, and seconded by Allen Lewis to approve a Notice of a Rules Hearing.**

**Motion passed unanimous.**

**Legal Report**

Review Committee Chairman Eddie Roberts went over the recommendations that the Review Committee made.

**Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Allen Lewis to approve these recommendations.**

**Motion passed unanimous.**

Attorney Wayne Pugh told the Commission they are undergoing a reorganization of the legal department. They are going to hire five (5) additional attorney positions; we are creating a litigation division. They will hold Formal Hearing before an Administrative Law Judge.

Meeting Adjourned.

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Eddie Roberts, Vice Chairman

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Leon Stribling, Executive Director